

Approved: 3-17-93
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on March 15, 1993 in Room 423-S of the Capitol.

All members were present or excused:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Don Hayward, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Charles E. Jones, Director, Division of Environment, KDHE
Bill Bider, Director, Bureau of Waste Management, KDHE
Stephen A. Hurst, Director, Kansas Water Office

Others attending: See attached list

HB 2428 - concerning solid waste management

Charles Jones, Director, Division of Environment, appeared before the committee noting his group had met with the League of Municipalities and Association of Counties following the March 12 meeting and, upon their suggestion, had redrawn the balloon of HB-2428 which was presented to the committee on that date. Attachment 1

Bill Bider, Director, Bureau of Waste Management, told the committee the changes were technical in nature and included waste that has an environmental impact but it did not change the substance or policy of the bill.

Discussion attempted to clarify the bill changes. Mr. Bider noted that there were three types of landfills and after the effective date of the act all landfills are brought into the universe of paying fees. After the effective date of the act waste types rather than type of facility are targeted. During further discussion Mr. Bider noted they did not want a site containing clean rubble only to be considered a construction and demolition landfill. He did state that the clean rubble needed to be separated from construction and demolition rubble. The explanation concerning this division concerns segregation of woods on which wood preservatives and lead paints, etc. had been used which could leach into the ground water resources.

A member questioned regulations which appear to be more stringent than federal regulations and it was stated that federal regulations do not speak to demolition waste, that such regulations speak to landfills, their design and their usage. Mr. Jones noted changes in thinking concerning location of landfills and those located in flood plains and other such unsuitable areas need to be closed. A member noted that the closing of numerous county landfills will be difficult and traumatic.

There was discussion concerning use of monofills noting that more industries are now disposing of such wastes in this manner since regulations are less stringent for certain types of materials. Mr. Jones noted that the disposal of construction and demolition waste needed to be resolved due to the recent Attorney General's opinion that unless the statutory language is changed, construction and demolition wastes are included and billable retroactive to January 1, 1993. Mr. Jones stated it was his preference to leave the environmentally questionable materials in the program but if the committee did not wish to do that it would be best to remove all construction and demolition waste from the bill.

A member requested a list of cement businesses such as those in Humboldt, Fredonia, Chanute and Independence.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on March 15, 1993.

Mr. Jones told the committee that the bill is presently written that the department must report to the House and Senate Committees if they adopt anything that is more stringent than the federal requirement and if that action did not meet with legislative approval the action could be reversed. He further noted that in some areas they did need to be more stringent, such as in the area of caps on landfills, since this has to do with more local weather, ground, etc. Also, there are some areas where federal regulations are silent. The future control of out of state waste was noted with Mr. Jones stating that they might feel it necessary to check all out of state waste coming in, this could be viewed as more stringent but would be protective of the state.

Staff suggested changing, on page 5 of the balloon, subsection (c), following "such fees were" to add "collected"; also, in (1) following "area;" strike "and".

Senator Vancrum made the motion to accept the balloon. Senator Walker seconded the motion and the motion carried.

Senator Emert made a motion for an amendment, to reinstate the original subparagraph (c) with the addition of the words "requirements for" at the end of line 5. Senator Hardenburger seconded the motion. The motion carried.

Senator Emert made a motion to put a period following "waste disposal areas" and delete the rest of the sentence. The motion died for lack of a second.

Senator Vancrum made a motion to remove the \$25 fee for out of state trash which the Attorney General feels is unconstitutional and is not being enforced. Senator Emert seconded the motion.

The question was asked whether there was any way, with federal guidelines, that a fee structure could be imposed and it was noted no way had been found.

The motion carried.

Senator Tillotson made a motion to renew Senator Emert's motion to put a period following "waste disposal areas" and delete the rest of the sentence. Senator Emert seconded the motion.

Senator Vancrum made a substitute motion to delete all of new (c). Senator Lawrence seconded the motion. The motion carried.

Senator Vancrum made a motion to pass HB-2428 out favorable as amended. Senator Emert seconded the motion and the motion carried. Senator Wisdom requested his NO vote be recorded.

HB-2040 - concerning the Kansas Water Authority; relating to membership

Stephen A. Hurst, Director of the Kansas Water Office, appeared in support of HB-2040. Attachment 2 Mr. Hurst noted the bill was introduced by the Kansas Water Office and would help in the implementation of the State Water Plan sub-section entitled "Coordination of Geographic Based Planning and Implementation Process, which requires, in part, that the Secretary of Agriculture be added as a nonvoting ex officio member of the Kansas Water Authority. Mr. Hurst noted in his testimony that the State Board of Agriculture has responsibilities in the area of pesticide and agricultural chemical management and permitting and management of several farm programs. Since the Division of Water Resources has separate responsibilities having a representative from the State Board of Agriculture would permit input into the decision making process on such important issues as pesticide application, licensing and management and its impacts on the area of non-point source pollution of the state's streams and water bodies.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for March 16, 1993.

GUEST LIST

SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

DATE March 15 - 1993(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Burke Bayer	Bayer Forest Products and Ks Land Improvement Protection ASSN
Charles Jones	KDHE
Bill Bider	KDHE
Bill Craven	Siena Club
Chiquita Cornelius	KS BIRP
STEVE KEARNEY	WASTE MANAGEMENT OF KS.
Chris McKenzie	League of Ks. Municipalities
Anne Smith	Ks. Assoc. of Counties
BEV BRADLEY	KS Assoc of Counties
Claudia S. Shelton	Ks. Dept. Comm. & Hsue.
Tom Stiles	KWO
Steve Hurst	KWO
George A. Hopkins	City of Garden City

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1993

HOUSE BILL No. 2428

By Committee on Energy and Natural Resources

2-10

AN ACT concerning solid waste management; amending K.S.A. 65-3406 [65-3402, 65-3406 and 65-3405b] and repealing the existing section [sections].

, 65-3407 and 65-3415b

Be it enacted by the Legislature of the State of Kansas:

[Section 1. K.S.A. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

[(a) "Solid waste" means garbage, refuse and other discarded materials including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous wastes as defined by subsection (f) of K.S.A. 65-3430, and amendments thereto, recyclables or the waste of domestic animals as described by subsection (a)(1) of K.S.A. 65-3409, and amendments thereto.

[(b) "Solid waste management system" means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.

[(c) "Solid waste processing facility" means incinerator, compost plant, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. This term does not include a scrap material recycling and processing facility.

[(d) "Solid waste disposal area" means any area used for the disposal of solid waste from more than one residential premise, or one or more commercial, industrial, manufacturing or municipal operations.

[(e) "Person" means individual, partnership, firm, trust, company, association, corporation, individual or individuals having con-

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1 trolling or majority interest in a corporation, institution, political
2 subdivision, state agency or federal department or agency.

3 [(f) "Waters of the state" means all streams and springs, and
4 all bodies of surface or groundwater, whether natural or artificial,
5 within the boundaries of the state.

6 [(g) "Secretary" means the secretary of health and environment.

7 [(h) "Department" means the Kansas department of health and
8 environment.

9 [(i) "Disposal" means the discharge, deposit, injection, dumping,
10 spilling, leaking or placing of any solid waste into or on any land
11 or water so that such solid waste or any constituent thereof may
12 enter the environment or be emitted into the air or discharged into
13 any water.

14 [(j) "Open dumping" means the disposal of solid waste at any
15 solid waste disposal area or facility which is not permitted by the
16 secretary under the authority of K.S.A. 65-3407, and amendments
17 thereto, or the disposal of solid waste contrary to rules and reg-
18 ulations adopted pursuant to K.S.A. 65-3406, and amendments
19 thereto.

20 [(k) "Generator" means any person who produces or brings into
21 existence solid waste.

22 [(l) "Monitoring" means all procedures used to (1) systematically
23 inspect and collect data on the operational parameters of a facility,
24 an area or a transporter, or (2) to systematically collect and analyze
25 data on the quality of the air, groundwater, surface water or soils
26 on or in the vicinity of a solid waste disposal facility or area.

27 [(m) "Closure" means the permanent cessation of active disposal
28 operations, abandonment of the disposal area, revocation of the
29 permit or filling with waste of all areas and volume specified in
30 the permit and preparing the area for the long-term care.

31 [(n) "Post closure" means that period of time subsequent to
32 closure of a solid waste disposal area when actions at the site must
33 be performed.

34 [(o) "Reclamation facility" means any location at which material
35 containing a component defined as a hazardous substance pursuant
36 to K.S.A. 65-3452a and amendments thereto is processed.

37 [(p) "Designated city" means a city or group of cities which,
38 through interlocal agreement with the county in which they are
39 located, is delegated the responsibility for preparation, adoption or
40 implementation of the county solid waste plan.

41 [(q) "Nonhazardous special waste" means any solid waste des-
42 ignated by the secretary as requiring extraordinary handling in a
43 solid waste disposal area.

1 [(r) "Recyclables" means any scrap materials that can be used
2 as a replacement for virgin material in manufacturing, including
3 but not limited to ferrous metals, scrap paper products, scrap plas-
4 tics and nonferrous metals. Nonferrous metals shall be defined by
5 rule and regulation.

6 [(s) "Scrap material processing industry" means any person who
7 accepts, processes and markets recyclables.

8 [(t) "Scrap material recycling and processing facility" means a
9 fixed location that utilizes machinery and equipment for processing
10 only recyclables.

11 [(u) "Construction and demolition waste" means ~~waste building~~
12 ~~materials and rubble resulting from construction, remodeling, repair~~
13 ~~or demolition operations on houses, commercial buildings, other~~
14 ~~structures and pavements.~~

15 [(v) "Construction and demolition landfill" means a permitted
16 solid waste disposal area used exclusively for the disposal on land
17 of construction and demolition wastes.]

18 Section 1 [Sec. 2]. K.S.A. 65-3406 is hereby amended to read
19 as follows: 65-3406. (a) The secretary is authorized and directed to:

20 (1) Adopt such rules and regulations, standards and procedures
21 relative to solid waste management as necessary to protect the public
22 health and environment, prevent public nuisances and enable the
23 secretary to carry out the purposes and provisions of this act.

24 (2) Report to the legislature on further assistance needed to ad-
25 minister the solid waste management program.

26 (3) Administer the solid waste management program pursuant to
27 provisions of this act.

28 (4) Cooperate with appropriate federal, state, interstate and local
29 units of government and with appropriate private organizations in
30 carrying out duties under this act.

31 (5) Develop a statewide solid waste management plan.

32 (6) Provide technical assistance, including the training of per-
33 sonnel to cities, counties and other political subdivisions.

34 (7) Initiate, conduct and support research, demonstration projects
35 and investigations and coordinate all state agency research programs
36 with applicable federal programs pertaining to solid waste manage-
37 ment systems.

38 (8) Establish policies for effective solid waste management
39 systems.

40 (9) Assist counties and groups of counties to establish and im-
41 plement solid waste planning and management.

42 (10) Authorize issuance of such permits and orders and conduct
43 such inspections as may be necessary to implement the provisions

solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; and solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup. Such wastes include, but are not limited to, bricks, concrete, and other masonry materials, roofing materials, soil, rock, wood, wood products, wall coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials and nonasbestos insulation. It shall not include asbestos waste, garbage, cardboard, furniture, appliances, electrical equipment containing hazardous materials, tires, drums, and containers even though such wastes resulted from construction and demolition activities. Clean rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered to be construction and demolition waste.

This term does not include a site that is used exclusively for clean rubble.

(w) "Clean rubble" means inert uncontaminated construction and demolition waste which includes concrete and concrete products, reinforcing steel, asphalt pavement, brick, soil or rock.

1 of this act and the rules and regulations and standards adopted
2 pursuant to this act.

3 (11) Conduct and contract for research and investigations in the
4 overall area of solid waste storage, collection, transportation, proc-
5 essing, treatment, recovery and disposal including, but not limited
6 to, new and novel procedures.

7 (12) Adopt rules and regulations for permitting of all solid waste
8 disposal areas, including those that are privately owned.

9 (13) Adopt rules and regulations establishing criteria for the lo-
10 cation of processing facilities and disposal areas for solid wastes.

11 (14) Adopt rules and regulations establishing appropriate meas-
12 ures for monitoring solid waste disposal areas and processing facil-
13 ities, both during operation and after closure.

14 (15) Adopt rules and regulations requiring that, for such period
15 of time as the secretary shall specify, any assignment, sale, convey-
16 ance or transfer of all or any part of the property upon which a
17 permitted disposal area for solid waste is or has been located shall
18 be subject to such terms and conditions as to the use of such property
19 as the secretary shall specify to protect human health and the
20 environment.

21 (16) Adopt suitable measures, including rules and regulations if
22 appropriate, to encourage recovery and recycling of solid waste for
23 reuse whenever feasible.

24 (17) Adopt rules and regulations establishing standards for trans-
25 porters of solid waste.

26 (18) Adopt rules and regulations establishing minimum standards
27 for closing, termination, and long-term care of sites for the land
28 disposal of solid waste. In this subsection, "site" refers to a site for
29 the land disposal of solid waste which has a permit issued under
30 K.S.A. 65-3407 and amendments thereto. The owner of a site shall
31 be responsible for the long-term care of the site for 30 years after
32 the closing of the site, except the secretary may extend the long-
33 term care responsibility of a particular site or sites as the secretary
34 deems necessary to protect the public health and safety or the en-
35 vironment. Any person acquiring rights of ownership, possession or
36 operation in a permitted site or facility for the land disposal of solid
37 waste at any time after the site has begun to accept waste and prior
38 to closure shall be subject to all requirements of the permit for the
39 site or facility, including the requirements relating to long-term care
40 of the site or facility.

41 (19) Enter into cooperative agreements with the secretary of com-
42 merce for the development and implementation of statewide market
43 development for recyclable materials.

(20) Adopt rules and regulations for the management of non-hazardous special wastes.

(b) In adopting rules and regulations, the secretary shall allow the exemption contained in subsection (f)(1) of 40 CFR 258.1.

(e) Standards adopted by the secretary and applicable to solid waste processing facilities or solid waste disposal areas shall conform to and be no more stringent than the standards required by federal law in effect on the effective date of this act.

(c) The secretary shall report on or before January 20 of each year to the house and senate standing committees on energy and natural resources any rules and regulations adopted by the secretary which establish standards for solid waste processing facilities or solid waste disposal areas that exceed or are in addition to those required by federal law. The secretary's report shall include the reasons for the adoption of such standards.

[Sec. 3. K.S.A. 65-3415b is hereby amended to read as follows:

65-3415b. (a) ~~There~~ is hereby imposed a state solid waste tonnage fee of \$1.50 for each ton or equivalent volume of solid waste disposed of at any solid waste disposal area in this state on or after January 1, 1993. ~~This provision shall not apply to: (1) Any solid waste by product produced and disposed in or at a permitted solid waste disposal area located on the site of generation or; (2) to any waste tire, as defined by subsection (j) of K.S.A. 65-3424, and amendments thereto, disposed in or at a permitted solid waste disposal area; or (3) construction and demolition waste disposed in or at a construction and demolition landfill.~~

~~(b)~~ The operator of a solid waste disposal area shall pay the fee imposed by this section. [d]

~~(c)~~ The secretary of health and environment shall administer, enforce and collect the fee imposed by this section. Except as otherwise provided by subsection (b), all laws and rules and regulations of the secretary of revenue relating to the administration, enforcement and collection of the retailers' sales tax shall apply to such fee insofar as they can be made applicable, and the secretary of health and environment shall adopt such additional rules and regulations as necessary for the efficient and effective administration, enforcement and collection thereof. [e]

~~(d)~~ The secretary of health and environment shall remit daily to the state treasurer all moneys collected from fees imposed pursuant to subsection (a). Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the solid waste management fund created by K.S.A. 65-3415. [f]

Except for construction and demolition landfills and industrial solid waste landfills, there

(b) There is hereby imposed a state solid waste tonnage fee of \$1.50 for each ton or equivalent volume of solid waste disposed of at any construction and demolition landfill and industrial solid waste landfills on and after the effective date of this act, other than waste enumerated in subsection (c). No such fee shall be imposed prior to the effective date of this act, except that, to the extent such fees were prior to the effective date of this act, such fee shall be remitted to the state.

(c) The fees imposed by this section shall not apply to:

(1) any waste tire, as defined by subsection (j) of K.S.A. 65-3424, and amendments thereto, disposed in or at a permitted solid waste disposal area; and

(2) any of the following wastes when disposed of at a monofill permitted by the department:

(A) sludges from public drinking water supply treatment plants;

(B) cement kiln dust from the manufacture of portland and masonry cement; and

(C) flue gas desulfurization sludge, fly ash and bottom ash from coal-fired electric generating facilities;

(3) clean rubble; and

(4) solid waste solely consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup but such exception shall not apply to yard waste.

and (b)

1 *and amendments thereto.]*

2 Sec. 2 [4]. K.S.A. 65-3406 is [65-3402, 65-3406, and 65-3415b]

3 are] hereby repealed.

4 Sec. 3 [5]. This act shall take effect and be in force from and

5 after its publication in the ~~statute book.~~

[5] 65-3407

[6] Kansas Register

Sec. 4 K.S.A. 65-3407 is hereby amended
to read as follows:

65-3407. Construction, alteration or operation of solid waste processing facility or disposal area unlawful without permit; permits; fees; conditions; denial, suspension or revocation of permits; permit void, when. (a) It shall be unlawful for any person to construct, alter or operate a solid waste processing facility or a solid waste disposal area of a solid waste management system, without first obtaining a permit from the secretary.

[, except for clean rubble disposal sites,

(b) Every person desiring to obtain a permit to construct, alter or operate a solid waste storage, treatment or processing facility or disposal area shall make application for such a permit on forms provided for such purpose by the rules and regulations of the secretary and shall provide the secretary with such information as necessary to show that the facility or area will comply with the purpose of this act. Upon receipt of any application and payment of the application fee, the secretary, with advice and counsel from the local health authorities and the county commission, shall make an investigation of the proposed solid waste processing facility or disposal area and

**Testimony by
Stephen A. Hurst, Director
Kansas Water Office
before the
Senate Energy and Natural Resources Committee**

March 15, 1993

Re: H.B. 2040

Thank you Mr. Chairman and members of the Committee: I am Stephen A. Hurst, Director of the Kansas Water Office. The bill that you have before you today is amendatory in nature and very specific and limited in scope. H.B. 2040, which was introduced by the Kansas Water Office on behalf of the Kansas Water Authority, would help in the implementation of the State Water Plan sub-section entitled "Coordination of Geographic Based Planning and Implementation Process," which requires, in part, that the Secretary of Agriculture be added as a nonvoting ex officio member of the Kansas Water Authority. This bill will amend K.S.A. 74-2622 *et seq.*

The Kansas Water Authority in the above mentioned sub-section of the State Water Plan recognized that the Division of Water Resources and the State Board of Agriculture have separate statutory authorities and responsibilities. As a result, this sub-section included representatives of both the Secretary of Agriculture and the Division of Water Resources on the five area coordination teams that meet regularly as a part of the state water planning process. These five area coordination teams are comprised of top level field office personnel of the various water-related agencies, and meet regularly to discuss topical water issues in their particular area of the state. These area coordination teams have enhanced input, from an agency perspective, into the basin planning process which involves 132 volunteer individuals, 11 in each of the 12 planning basins used by the Kansas Water Authority in developing recommendations for the Governor and

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Legislature and in developing the State Water Plan.

As you know, the Division of Water Resources and the Chief Engineer have the regulatory responsibilities of tracking and issuing water rights and permits, and enforcing many regulations as to the use of water and construction of channels and dams that may impact the course of streams and the free flow of water in the state. The statutory authority setting out the responsibilities of the Division of Water Resources are separate from those State Board of Agriculture which has responsibilities in the area of pesticide and agricultural chemical management and permitting and the management of several farm programs. By adding a representative of the State Board of Agriculture on the area coordination teams, the Secretary is represented at the basin level of planning but is still not involved directly with the Kansas Water Authority in providing agency head level input into the decision making process on such important issues as pesticide application, licensing and management and its impacts in the area of non-point source pollution of the state's streams and water bodies. As you know, the State Board of Agriculture last year formed a pesticide management area (PMA) in the drainage area of the Delaware River in northeast Kansas. This pesticide management area was the first one of its kind in the nation and was a very progressive step towards the management of agricultural, chemical runoff and the protection of water supplies. The State Board of Agriculture is also currently looking at alternative crops and irrigation techniques in western Kansas to lower the rate of groundwater usage in that part of the state in an attempt to address the aquifer depletion problems with the Ogallala Aquifer.

It is precisely these types of issues that the Kansas Water Authority had in mind with their recommendation in the State Water Plan sub-section to add the Secretary of Agriculture as

an ex officio nonvoting member to the Kansas Water Authority. The voting members of the Kansas Water Authority desire the input of the various state water-related agency heads from their unique areas of expertise on crucial funding and policy issues. Such input into the planning process is invaluable to the voting membership of the Kansas Water Authority.

This legislation was subject to the full scrutiny and review of the Kansas water planing process which included discussion among the voting and ex officio members of the Kansas Water Authority at their regular public meetings both in special committee and in the committee of the whole. This legislative proposal was approved by the voting membership to go out to the 12 public meetings held by the Kansas Water Authority, one in each basin across the state and was the subject of public input and discussion at those meetings as well as at two formal public hearings, one held in Hays, Kansas, and one held in Topeka. Following public input, the Kansas Water Authority approved the sub-section recommending the addition of the Secretary of Agriculture as an ex officio member and requested the Kansas Water Office to present their legislative recommendation to the state legislature, which we have done. I would also like to note that there is no fiscal impact attached to this bill.

I appreciate the opportunity to testify before you here today and urge your favorable consideration of H.B. 2040.